

**In the High Court of Punjab and Haryana, Chandigarh.**

**Criminal Appeal No. 792-SB of 1997**

Date of Decision: 18.3.2008.

Rajinder Singh

...Appellant

Versus

State of Punjab

...Respondent

**CORAM: HON'BLE MR. JUSTICE KANWALJIT SINGH AHLUWALIA**

Present: Mr. R.K.Battas and Mr. R.D.Gupta, Advocates  
for the appellant.

Mr. Mehardeep Singh, Assistant Advocate  
General, Punjab, for the State.

**Kanwaljit Singh Ahluwalia, J. (Oral)**

Criminal Appeal No. 792-SB of 1997 has been preferred by Rajinder Singh who was nominated as accused in case FIR No. 27 dated 6.6.1994 registered at Police Station Amloh under Sections 307 read with Section 34 IPC.

Appellant was tried along with his wife Balbir Kaur and learned Additional Sessions Judge, Fatehgarh Sahib, acquitted his wife and held him guilty under Section 307 IPC and sentenced him to undergo five years rigorous imprisonment and a fine of Rs.2,000/-. In default of payment of fine, he was further ordered to undergo four months rigorous imprisonment.

Learned trial Court has held that the appellant has caused injuries to Baljit Singh with a gatra kirpan on the right side of chest of the victim and the chest injury was declared dangerous to life. Baljit

Singh injured remained admitted in C.M.C. Ludhiana. On 4.6.1994, he was medicolegally examined by Dr.A.Joseph and the following injuries were found on his person:-

- “1. 2 cm long incised wound on his right side chest anteriorly in 6<sup>th</sup> intercostal space about 10 cm from midline communicating with plaural cavity, bleeding was present;
2. 2 cm long incised wound left side chest anterior-lateral aspect about 13 cm from midline in 5<sup>th</sup> of intercostal space minimum bleeding was present;
3. 1.5 cm long incised wound left side chest anteriorly about 10 cm from midline in 7<sup>th</sup> intercostal space minimum bleeding was present;
4. 5 cm long incised wound left side of chest laterally about 21 cm from midline subcutaneous tissue was deep, minimal bleeding was present; AND
5. 4 cm long incised wound left elbow posteriorly subcutaneous tissue deep, minimal bleeding was present”.

Baljit Singh injured, appeared as PW.3. He has reiterated the version given by him in the FIR. Briefly stated, Baljit Singh PW.3 has stated that appellant Rajinder Singh along with his wife Balbir Kaur came in the hutment in the fields. They raised objection as the water

seepage used to go to the fields of accused. It is further stated that Balbir Kaur caught hold of him from his leg and Rajinder Singh caught hold him from his arms and thereafter Rajinder Singh took out his gatra kirpan and gave three blows on the left flank, which caused injuries on the ribs of Baljit Singh, complainant. It was stated that the motive for the occurrence was a land dispute regarding partition of land. Baljit Singh was thoroughly cross-examined. The defence failed to cause any dent in his testimony.

Baljit Singh, PW.3, was corroborated by the testimony of Malkiat Singh, PW.4.

It has been stated before me that no reliance should be placed by this Court on the testimony of Baljit Singh, PW.3 and Malkiat Singh, PW.4 as they are interested witnesses and no independent witness has been examined. It has been further contended that there are material discrepancies, contradictions and improvements in the testimony of the witnesses, therefore, they suffer from blemish. It has been further stated that there is a delay of 30 hours in lodging of FIR and, therefore, the prosecution case should be disbelieved.

Having heard Mr. R.K.Battas, I am of the considered opinion that these arguments in itself are not sufficient to return acquittal of the appellant. As far as the delay is concerned, benefit has already been given to the wife of appellant. Baljit Singh is an injured witness. His presence at the spot is stamped. He will be the last person to substitute or falsely implicate any other person as accused. Accused and witnesses belong to the same village. Furthermore, testimony of the witnesses is fully corroborated by the medical evidence and the

investigating agency has examined the spot. Therefore, on this ground, I am afraid, sole accused cannot be acquitted when the injured had taken a definite stand against him in the witness box.

In the alternate, Mr. Battas has contended that in the present case occurrence pertains to year 1994 and a period of 14 years is going to lapse and protracted trial in itself should be construed as mitigating circumstance. It is further contended that the parties are residents of same village and sending the appellant behind the bars at this stage may not disrupt peace, amity and cordial relations prevailing between the parties. At the same time, this Court is conscious of the fact that the injuries given were very serious. Victim remained in C.M.C. Ludhiana and the treatment given to him as revealed by the doctor, in his statement, does not entitle the appellant to reduction of sentence to already undergone especially when the appellant has only undergone two months and ten days.

Taking totality of circumstances into view, ends of justice will be fully met in case sentence of appellant is reduced from five years to two and a half years and fine is increased to Rs.20,000/- and the fine be deposited within three months. Fine so deposited, be disbursed to the injured. In case the fine is not deposited then the appellant shall undergo six months in default.

With these observations, the present appeal is disposed off.

**(Kanwaljit Singh Ahluwalia)**  
**Judge**

**March 18, 2008**  
**“DK”**